

OLL 84-1205  
22 March 1984

MEMORANDUM FOR: C/SECOM

[redacted]  
C/Policy Branch/P&PG/OS

STAT

[redacted]  
Administrative Law Division/OGC

STAT

FROM:

[redacted]  
Office of Legislative Liaison

STAT

SUBJECT: H.R. 4681, the Federal Polygraph Limitation  
and Anti-Censorship Act of 1984

1. Attached at Tab A is the second revision of H.R. 4681 prepared by Andy Feinstein, Majority Staff Counsel to Representative Schroeder's Subcommittee on Civil Service of the House Committee on Post Office and Civil Service. Two major changes are contained in this revision. First, in section 7361, a new definition of the "employees" who will be subject to the bill's prohibitions has been provided which includes experts or consultants who are under contract under section 3109 of title 5. The second change relates to the provision addressing mandatory rescission of prepublication review agreements contained in section 7365. The revised bill now specifically provides that this mandatory rescission section does not apply with respect to CIA or NSA, or "to any agreement which requires prepublication review at either of those agencies."

2. Also attached for your review at Tab B is an amendment to H.R. 4681 drafted by the staff of the House Permanent Select Committee on Intelligence (HPSCI). This amendment would provide, in addition to the exemption afforded CIA and NSA, a limited exemption for the Department of Defense, the Federal Bureau of Investigation, the Federal Emergency Management Agency, and any other agency which employs individuals in positions in which the primary duties involve cryptographic communications or technology. HPSCI, on behalf of the Intelligence Community, has been negotiating with Mr. Feinstein concerning this suggested amendment and the expansion of the exemption presently included in the Brooks bill. As you may know, mark-up of the Brooks bill was originally scheduled for

this past Wednesday, 21 March 1984, but was postponed and rescheduled for next Wednesday, 28 March, due to the inability of HPSCI and the Civil Service Subcommittee to reach agreement on this issue. I am attaching at Tab C a letter from Representative Schroeder to the Chairman of the House Committee on Post Office and Civil Service, the Honorable William D. Ford, which addresses the postponement of the scheduled mark-up. Representative Schroeder's letter references a letter received from Robert McFarlane, National Security Advisor of the President, which provides assurances that the prepublication review and polygraph provisions of NSDD 84 will not be reinstated during the remainder of this session of Congress. This letter from Mr. McFarlane also is attached for your review and consideration (Tab D).

3. Mike O'Neil, Majority Counsel to HPSCI, has indicated his willingness to seek whatever reasonable changes we desire in the attached revision following our review of the bill. In order that we may reach an agreed-to-position with respect to the revisions that are necessary from the Agency's perspective in the attached revision, I would suggest that we meet on Monday, 26 March, at 2:30 p.m., in my Office, 7B42 Hqs., to discuss both Mr. Feinstein and the HPSCI's revision of the original Brooks bill.

STAT

#### Attachments

#### DISTRIBUTION:

- 1 - Each Addressee
- 1 - D/OLL
- 1 - DD/OLL
- ✓ 1 - OLL Chrono
- 1 - LEG File: Polygraphs
- 1 - LEG File: Prepublication Review
- 1 - SWH Signer

SWH:csh (22 March 1984)